



Crl.R.C.No.1783 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.11.2023

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THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl.R.C.No.1783 of 2023

S.Ekambaram

... Petitioner

Vs.

State rep, by its
Sub-Inspector of Police,
Alagapuram (fairland's) Police Station,
Salem.
(Crime No.744/2022)

... Respondent

Prayer: Criminal Revision Petition filed under Sections 397 r/w. 401 of Criminal Procedure Code, to set aside the order passed in Crl.M.P.No.905 of 2023 dated 02.06.2023 on the file of Judicial Magistrate No.V, Salem.

For Petitioner : Mr.V.Sachin Vinayak

For Respondent : Mr.A.Damodaran,
Additional Public Prosecutor

ORDER

This Criminal Revision Case has been filed to set aside the impugned order, dated 02.06.2023 in Crl.M.P.No.905 of 2023 passed by the learned Judicial Magistrate No.V, Salem.



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2.The petitioner lodged complaint against one Boopathi and Periyasamy in Crime No.744 of 2022, dated 02.11.2022 for offence under Sections 385, 420, 387 & 506(2) of IPC. During investigation, the documents of the petitioner (i)Sale deed in document No.4637 of 2011 (ii)Sale deed in document No.4638 of 2011 (iii)Sale deed in document No.2659 of 2012 and (iv)Sale deed in document No.2722 of 2009 were seized. Thereafter, a petition under Section 451 of Cr.P.C., was filed by the petitioner to return the said documents in Crl.M.P.No.905 of 2023 before the learned Judicial Magistrate No.V, Salem. The learned Magistrate *vide* order, dated 02.06.2023 dismissed the petition on the ground that the return of documents at the present stage would lead to disturb the investigation. Challenging the same, the present Criminal Revision Case is filed.

3.The contention of the petitioner is that the petitioner is the owner of the properties mentioned in the above said sale deeds, hence, he needs the documents to be returned. The petitioner is the owner of the property to the extent of 7.25 acres situated at Chinna Veeranam Village. Due to the loss suffered by him in his business and in order to discharge the bank and other



liabilities, the petitioner decided to sell his properties and approached one Boopathy (A1 in Crime No.744 of 2022) to have layout and promote the lands by dividing into plots. The lands were promoted in the name of Sai Builders, sold to several persons and the said Boopathy received around Rs.83 lakhs, but not given the petitioner's share. When the petitioner questioned the same, he was avoiding the payment, on the other hand Boopathy threatened the petitioner to handover the documents. Finally, on 29.10.2022, Boopathy, Periyasamy along with their brothers came to the petitioner's house, threatened and assaulted him and took away the documents. Hence, a complaint was lodged by the petitioner which was registered in Crime No.744 of 2022 as stated above. During investigation, documents in dispute seized. When this being so, the lower Court without considering the above aspects, dismissed the petition under Section 451 Cr.P.C., which is not proper. Hence, prays for setting aside the impugned order.

4.The learned Additional Public Prosecutor appearing for the respondent Police filed counter and submitted that during the course of



investigation, on 03.11.2022 Boopathy and Periyasamy were arrested, they gave confession in presence of witnesses. Later, the documents were recovered. Now, Crime Nos.742 of 2022 registered at the instance of the said Boopathy's friend Praveen Kumar and Crime No.744 of 2022 registered at the instance of the petitioner are being investigated by the respondent Police. For the purpose of investigation, the documents are required. Hence, prays for dismissal of the Criminal Revision Case confirming the impugned order.

5.The learned counsel for the petitioner submits that the petitioner will file an affidavit before the lower Court to the effect that he will produce the documents as and when required by the respondent Police and the trial Court for the purpose of investigation and trial. In any event, the learned Magistrate may take photostat copy of the documents which will be attested by the petitioner in the presence of the Magistrate. Thereafter, the original documents can be handed over to the petitioner.



6.Considering the submissions and on perusal of the materials, it is not in dispute that the documents belong to the petitioner. Now, the respondent Police seized the same in the above case. The petitioner has come forward to file an affidavit that he shall produce the original documents as and when required by the respondent Police for the purpose of investigation.

7.In view of the above, this Court is inclined to return the (i)Sale deed in document No.4637 of 2011 (ii)Sale deed in document No.4638 of 2011 (iii)Sale deed in document No.2659 of 2012 and (iv)Sale deed in document No.2722 of 2009 to the petitioner subject to the following conditions.

(i)The learned Judicial Magistrate No.V, Salem to return the above said original documents to the petitioner after taking photostat copies of the same with attestation of the petitioner in his presence.

(ii)The petitioner to produce the original documents as and when required by the respondent Police and the trial Court for the purpose of investigation and trial.



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M.NIRMAL KUMAR, J.

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8.With the above directions, this Criminal Revision Case is disposed
of setting aside the impugned order, dated 02.06.2023.

24.11.2023
(¹/₂)

Index : Yes/No
Speaking Order/Non Speaking Order
Neutral Citation: Yes/No
Internet: Yes/No

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To

- 1.The Judicial Magistrate Court No.V,
Salem.
- 2.The Sub-Inspector of Police,
Alagapuram (Fairland's) Police Station,
Salem.
- 3.The Public Prosecutor,
High Court, Madras.

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